

Amendments to the Drawings:

The attached sheets of drawings include new Figure 1A. The sheet which also includes Figs. 1 and 2-, replaces the original sheet.

Attachments: New Figure 1A

### REMARKS

Claims 1-26 and 36-46 are pending in the present application. Claims 8-26 and 40-46 have been withdrawn from consideration. In the Office Action dated July 20, 2005, the Examiner rejected claims 1-7 and 36-39 under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,225,628 ("Heiny") and U.S. Patent Application No. 2003/0217665 to Rennard ("Rennard"). The drawings are objected to under 37 C.F.R. 1.83(a) for failing to show a mass of spherically-shaped pellets and a wad positioned within the casing.

### **Embodiments Disclosed in Present Application in Comparison to the Cited Art**

The embodiments disclosed in the present application will now be discussed in comparison to the cited references. Of course, the discussion of the disclosed embodiments, and the discussion of the differences between the disclosed embodiments and the cited references, do not define the scope or interpretation of any of the claims. Instead, such discussed differences merely help the Examiner appreciate important claim distinctions discussed thereafter.

The present application is directed, in part, to ammunition having an identifier. One embodiment includes an ammunition cartridge 10 for a firearm having a bullet 12 with a first identification surface positioned thereon. The ammunition cartridge 10 further includes a casing 14 that retains the bullet 12. The casing 14 further includes a second identification surface. An identifier including a code 31 comprised of a plurality of optically identifiable characters may be positioned on at least one of the first and the second identification surfaces to identify the origin of the ammunition article and repetitively applied to the first and/or second identification surfaces. In another embodiment, the projectile comprises a mass of generally spherically-shaped pellets and a wad is positioned within the casing having a third identification surface that may contain the identifier.

In one embodiment shown in Figure 2, the identifier includes a code prefix 32 that generally includes similar characters, such as dot, dimples or other similarly recognizable figures. The identifier also includes a code body 34 that includes a plurality of readily recognizable and distinct characters, which may be a serial arrangement of numbers and/or letters, or even a randomly selected arrangement of numbers and/or letters. In one embodiment, the plurality of optically identifiable characters may be a combination of alphanumeric characters. In another embodiment, the optically identifiable characters may be selected from

the characters available on a standard keyboard or a 256 character set. Thus, the code 31 may be easily interpreted by a person, such as a police officer, at a crime scene.

As shown in Figure 2a, the identifiers may be identically reproduced numerous times on a portion of the bullet 12 (e.g., the base 26) or the casing 14. In some embodiments, the identifier may be applied to the identification surface so as to occupy substantially all of the surface area of the identification surface that it is applied to. In another embodiment, the codes 31 may be applied to the web portion 24 of the casing 14, which is particularly resistant to alteration or eradication because it is deeply recessed within the casing 14. In yet another embodiment, the identifiers may be applied to a portion of the bullet 12 or the casing 14 so that the codes 31 are formed in identifiable rows and are staggered so that the codes 31 do not form identifiable columns. The codes 31 may also be applied to the base 26 of the bullet 21 in a circular arrangement, or in still other arrangements. The placement of the code on the base 26 of the bullet 21 so that the code is symmetrically placed thereon may also advantageously prevent the bullet from becoming unbalanced due to the application of the code 31. Thus, the ballistic properties of the bullet will not be altered due to the application of the code 31. The repetitive placement of the code 31 on at least one of the identification surfaces of the ammunition cartridge advantageously helps to ensure that at least one of the codes 31 (Figure 2) remains intact and identifiable despite deformation and/or fragmentation of the bullet 12.

Heiny has been cited to teach a projectile having a first identification surface, a casing with a second identification surface coupled to the projectile, and an identifier positioned on at least one of the first and second identification surfaces. Heiny discloses a tactile identification means as the identifier, which enables the user to identify a round by running a finger over a raised portion 51. A tactile identifier is an identifier that is perceptible by touch and a user senses a tactile identifier by touch. For example, *Merriam-Webster OnLine Dictionary* defines tactile as “1. perceptible by touch or 2. of or relating to the sense of touch.” Heiny does not disclose or fairly suggest using an alphanumeric code. Nor does Heiny provide any motivation to replace its tactile identifier with an alphanumeric code. Heiny does not recognize the equivalence of a tactile identifier and an optically readable alphanumeric code.

Rennard has also been cited. Rennard discloses an ammunition cartridge that includes a projectile 20 coupled to a casing 12 that includes an identifier. The identifier may include an alphanumeric code. As most clearly shown in Figure 5, the casing 12 has a single,

code (*i.e.*, reference numeral 42) that is applied to a surface thereof. The reference numeral 42 is not repetitively applied to the casing 12. Rennard does not teach applying the code to a bullet. Accordingly, Rennard does not recognize or teach the importance of repetitively and identically applying a code to a bullet to increase the likelihood that a code remains intact and identifiable upon discharge from a firearm and impact with a target. Since the code is applied only to the casing, there would not be a strong need to repetitively and identically apply a code to the casing because the casing is not typically damaged in the way the projectile is during firing and impact with a target. In other words, survivability of the code is not as significant of problem on casing.

Rennard actually teaches away from repetitively and identically applying an alphanumeric code to the casing 12 because it stresses the importance that the reference numeral 42 should be human readable. (See paragraph 27 of Rennard). If the reference numeral 42 was repetitively and identically applied to the casing 12 it should be made substantially smaller, thus, degrading the human readability thereof.

Similarly to Heiny, Rennard also does not recognize the equivalency of a tactile identifier and an alphanumeric code. Accordingly, there is no motivation in Rennard and Heiny to replace the tactile identifier of Heiny with the alphanumeric code of Rennard. The Manual of Patent Examination Procedure (M.P.E.P.) makes clear that in order to rely on equivalence as a rationale for supporting an obviousness rejection, the equivalency must be recognized in the prior art, and cannot be based on the applicant's disclosure or the mere fact that the components at issue are functional or mechanical equivalents. See, M.P.E.P. § 2144.06.

In addition to the combination of Heiny and Rennard failing to disclose or fairly suggest a code having a combination of alphanumeric characters applied to a projectile and/or a casing, the combination of Heiny and Rennard fail to disclose or fairly suggest repetitively applying such a code to a projectile and/or a bullet. Heiny and Rennard must provide some motivation or suggestion to repetitively apply an alphanumeric code to the projectile and/or the casing. No teaching from Heiny and Rennard nor citation of any other legal authority has been provided to substantiate the assertion that mere duplication of the alphanumeric code involves merely routine skill in the art. Applicants request that the Examiner cite a reference or legal authority that supports the assertion made in the Office Action that identically and repetitively applying the code to a bullet involves only routine skill in the art. (Office Action dated July 20, 2005, Page 4, ¶ 3).

Accordingly, Heiny and Rennard, either individually or in combination, do not disclose or fairly suggest using a code having a combination of alphanumeric characters that are repetitively applied to a projectile and/or a casing of an ammunition cartridge as disclosed in Applicants' embodiments.

### **Claims and Rejections**

Turning now to the claims, patentably distinct differences between the actual claim language and the applied references will be specifically pointed out. Claim 1 recites, in part, "an identifier positioned on at least one of the first and the second identification surfaces, the identifier further including a code comprised of a plurality of optically identifiable characters, the plurality of optically identifiable characters comprising a combination of alphanumeric characters, the code being identically and repetitively applied to the identification surfaces." None of the cited references teach or fairly suggest the combination of limitations recited above. Specifically, neither Heiny nor Rennard teach or fairly suggest employing a code comprised of a plurality of optically identifiable characters, the code being *identically and repetitively* applied to the identification surfaces. Claims depending from claim 1 are also allowable due to depending from an allowable base claim and further in view of the additional limitations recited in the dependent claims.

Claim 36, recites "a projectile comprising a mass of generally spherically-shaped pellets; a casing that is coupled to the projectile; a wad positioned within the casing; and an identifier positioned on at least one of the projectile, casing, and wad, the identifier further including a code comprised of a plurality of optically identifiable characters, the code being identically and repetitively applied to the identification surfaces." None of the cited references teach or fairly suggest the combination of limitations recited above. Specifically, neither Heiny nor Rennard teach or fairly suggest employing a code comprised of a plurality of optically identifiable characters, the code being *identically and repetitively* applied to the identification surfaces. Furthermore, none of the cited references teach or fairly suggest an ammunition cartridge having a wad positioned within its casing. Claims depending from claim 27 are also allowable due to depending from an allowable base claim and further in view of the additional limitations recited in the dependent claims.

All of the claims remaining in the application (claims 1-26 and 36-46) are now clearly allowable. Favorable consideration and a timely Notice of Allowance are earnestly solicited.

**Objection to the Drawings Under 37 C.F.R. 1.83(a)**

The elements a mass of spherically-shaped pellets and a wad positioned within the casing have been illustrated in new Figure 1A. The specification has also been amended to insert additional reference numerals associated with new Figure 1A.

Respectfully submitted,

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Enclosures:

Postcard  
Check  
Fee Transmittal Sheet (+ copy)  
3 Sheets of Drawings (Figs. 1-4) (Including New Figure 1A)

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